



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6002

Introduced 2/10/2010, by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

See Index

Creates the Senior Safety Rapid Response Act. Requires persons seeking admission to a senior facility licensed under the Nursing Home Care Act, the Assisted Living and Shared Housing Act, or a supportive living facility as described in the Medical Assistance Article of the Illinois Public Aid Code, as well as participants in an adult day care services program governed by the Illinois Act on the Aging to undergo a criminal background check under the prescreening programs paid for by the Department on Aging or the Department of Human Services. Sets forth certain standards the pre-screener must comply with when conducting a criminal background check on a senior facility applicant. Requires a senior facility applicant to make certain disclosures. Contains provisions concerning conditional acceptance of a senior facility applicant; risk analysis and security plans; involuntary discharge or termination from the senior facility; notification of identified offenders; segregated programming; and civil immunity. Amends the Unified Code of Corrections. Adds the Department on Aging to the list of State agencies entitled to specified information from the Department of Corrections regarding a person on parole or mandatory supervised release who becomes a resident of a senior facility or participant in a senior program regulated by the agency. Repeals provisions in the Nursing Home Care Act concerning screening prior to admission, criminal history analysis, and notification of identified offenders. Repeals a provision in the Nursing Home Care Act that repealed a provision requiring the Department of Public Health to determine the feasibility of requiring identified offenders that seek admission to a licensed facility to be segregated from other residents. Effective immediately.

LRB096 19064 KTG 35929 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Senior
5 Safety Rapid Response Act.

6 Section 5. Legislative findings. The General Assembly
7 finds that it is in the best interest of the State and its
8 frail elderly residents who are dependent upon State regulated
9 residential and non-residential services to mitigate the
10 likelihood that an identified offender residing in a senior
11 facility will harm another resident or employee of the
12 facility.

13 Section 10. Definitions.

14 "Covered facility" or "facility" means: a facility
15 required to be licensed or certified under the Nursing Home
16 Care Act; an establishment required to be licensed under the
17 Assisted Living and Shared Housing Act; or a supportive living
18 facility as described in Article V of the Illinois Public Aid
19 Code.

20 "Covered program" or "program" means adult day care
21 services governed by Section 4.02 of the Illinois Act on Aging.

22 "Criminal history" means conviction of a felony listed in

1 Section 25 of the Health Care Worker Background Check Act,
2 registration as a sex offender, or a current term of parole,
3 mandatory supervised release, or probation for a felony offense
4 occurring in Illinois or in another jurisdiction.

5 "Identified offender" means a person who has been convicted
6 of any felony offense listed in Section 25 of the Health Care
7 Worker Background Check Act, is a registered sex offender, or
8 is serving a term of parole, mandatory supervised release, or
9 probation for a felony offense.

10 Section 15. Criminal background check.

11 (a) Each individual screened under the prescreening
12 programs paid for by the Department on Aging or the Department
13 of Human Services shall have a criminal background check
14 initiated by the pre-screener consistent with standards set
15 forth in subsection (d) of this Section. Failure to comply
16 shall result in sanctions levied by the pre-screener's
17 regulatory agency.

18 (b) Non-Medicaid qualifying individuals shall be charged
19 the actual cost of performing the criminal background check.
20 Medicaid qualifying individuals shall pay \$1 for each criminal
21 background check performed. Payment shall be made directly to
22 the Department of State Police.

23 (c) Upon acceptance of an individual to a covered program
24 or a covered facility, the program or facility shall determine
25 whether a criminal background check has been initiated and

1 completed. If a criminal background check has not been
2 initiated the program or facility shall make the request
3 consistent with standards set forth in subsection (d) of this
4 Section within 24 hours of acceptance. Failure to comply shall
5 result in sanctions levied by the program or facility's
6 regulatory agency.

7 (d) Criminal background checks shall be requested
8 electronically pursuant to the Illinois Uniform Conviction
9 Information Act for all persons age 18 or older seeking
10 acceptance into a covered program or a covered facility and
11 shall be conducted in a manner that is respectful of the
12 individual's dignity and that minimizes any emotional or
13 physical hardship to the individual. Criminal background
14 checks conducted pursuant to this Section shall be based on the
15 individual's name, date of birth, and other identifiers as
16 required by the Department of State Police. If the results of
17 the criminal background check are inconclusive, the requesting
18 entity shall initiate a fingerprint based check. The Department
19 of State Police shall submit the results of all criminal
20 background checks to the requesting entity. If the criminal
21 background check reveals that the individual is an identified
22 offender, then the Department of State Police shall also submit
23 the results to the Department of Public Health, which shall
24 maintain them in a manner to permit the covered program or the
25 covered facility to access the information.

26 (e) A covered program or a covered facility, except an

1 intermediate or skilled care facility licensed under the
2 Nursing Home Care Act, shall within 60 days of the effective
3 date of this Act request a criminal background check on
4 existing program participants or facility residents consistent
5 with the standards set forth in subsection (d) of this Section,
6 with all results submitted to the Department of Public Health.
7 Each participant or resident identified as an identified
8 offender shall have a risk analysis and security plan developed
9 for him or her by the Department of State Police's Medicaid
10 Fraud Control Unit consistent with Section 30.

11 Section 20. Disclosure of criminal history. Every person
12 requesting acceptance to a covered program or a covered
13 facility shall be required to disclose all criminal history
14 prior to acceptance. Failure to disclose all criminal history
15 shall constitute a rebuttable presumption that the individual
16 poses an immediate threat to the safety of other program
17 participants or facility residents or program or facility
18 employees and shall result in an immediate termination or
19 discharge from the program or facility and the loss of all
20 notice and appeal rights accorded program participants or
21 facility residents by law.

22 Section 25. Conditional acceptance. An individual seeking
23 acceptance to a covered program or a covered facility prior to
24 completion of a criminal background check and, if applicable, a

1 risk analysis or security plan shall be accepted on a
2 conditional basis pending completion of the criminal
3 background check and, if applicable, a risk analysis or
4 security plan. During the period of conditional acceptance, the
5 applicant must be segregated from other program participants or
6 facility residents. In agreeing to a conditional acceptance,
7 the program or facility retains the right to deny full
8 acceptance if the applicant, having indicated that he or she
9 did not have a felony conviction, is found to have a criminal
10 record. The program or facility also has the right to decline
11 full acceptance if it determines, upon reviewing the security
12 plan, that it cannot provide sufficient security to ensure the
13 safety of the other participants or residents and staff. An
14 applicant accepted on a conditional basis shall have all rights
15 and protections afforded program participants or facility
16 residents except, with regard to an involuntary termination or
17 discharge from the program or facility, the right to notice and
18 appeal.

19 Section 30. Risk analysis and security plan.

20 (a) Every identified offender shall have a risk analysis
21 performed and, if warranted, a security plan developed by the
22 Medicaid Fraud Control Unit as soon as practicable, but not
23 later than 14 days after a criminal background check confirms
24 the person is an identified offender.

25 (b) The risk analysis shall include a comprehensive

1 criminal history analysis which shall include, but need not be
2 limited to, all of the following:

3 (1) Consultation with the identified offender's
4 assigned parole agent or probation officer, if applicable.

5 (2) Consultation with the convicting prosecutor's
6 office.

7 (3) A review of the statement of facts, police reports,
8 and victim impact statements, if available.

9 (4) An interview with the identified offender.

10 (5) Information requested from other jurisdictions
11 with information the Medicaid Fraud Control Unit deems to
12 be of value to its assessment.

13 (6) Consultation with the program or facility
14 administrator or program or facility medical director, if
15 applicable, or both, regarding the physical condition of
16 the identified offender.

17 (7) Consideration of the entire criminal history of the
18 offender, including the date of the last conviction
19 relative to the date of acceptance into the covered program
20 or covered facility.

21 (8) If the identified offender is a convicted or
22 registered sex offender, a review of all sex offender
23 evaluations conducted on the offender. If there is no sex
24 offender evaluation available, the Medicaid Fraud Control
25 Unit shall provide for a sex offender evaluation to be
26 conducted on the identified offender. If the convicted or

1 registered sex offender is under the supervision of the
2 Illinois Department of Corrections or a county probation
3 department, the sex offender evaluation shall be arranged
4 by and at the expense of the supervising agency. All
5 evaluations conducted on convicted or registered sex
6 offenders under this Act shall be conducted by sex offender
7 evaluators approved by the Attorney General's Sex Offender
8 Management Board.

9 (c) The Medicaid Fraud Control Unit shall prepare a risk
10 analysis report based on the analysis conducted pursuant to
11 subsection (b) of this Section. The report shall include a
12 summary of the risk analysis and shall detail whether and to
13 what extent the identified offender's criminal history
14 necessitates the implementation of security measures within
15 the covered program or covered facility. If the identified
16 offender is a convicted or registered sex offender or if the
17 Medicaid Fraud Control Unit's criminal history research
18 reveals that the identified offender poses a significant risk
19 of harm to others within the program or facility, the offender
20 shall be diverted to a segregated program or facility designed
21 to serve high risk persons.

22 (d) The risk analysis report shall promptly be provided to
23 the following:

24 (1) The program or facility to which the identified
25 offender seeks admission.

26 (2) The Chief of Police of the municipality in which

1 the program or facility is located.

2 (3) The Department on Aging's Long Term Care Ombudsman,
3 if applicable.

4 (e) The covered program or covered facility shall
5 incorporate the risk analysis report into the identified
6 offender's care plan.

7 (f) Except for willful and wanton misconduct, any person
8 authorized to participate in the development of a risk analysis
9 report is immune from criminal or civil liability for any acts
10 or omissions as the result of his or her good faith effort to
11 comply with this Section.

12 (g) Risk assessments and security plans shall be reviewed
13 annually by the Medicaid Fraud Control Unit or at the request
14 of the program or facility, whichever is sooner.

15 (h) The Medicaid Fraud Control Unit shall conduct annual
16 site visits to all covered programs or covered facilities
17 housing identified offenders and shall be provided access upon
18 request to any covered program or covered facility in order to
19 search for persons with outstanding warrants or who, out of
20 compliance, are registered as a sex offender.

21 Section 35. Compliance with security plan. A program
22 participant or prospective participant or a facility resident
23 or prospective resident for whom a security plan was developed
24 shall sign and date the security plan indicating his or her
25 agreement to live within the guidelines provided as a condition

1 of participation or residency. Failure to comply with the
2 security plan shall result in an immediate involuntary
3 termination or discharge from the program or the facility and
4 the loss of notice and appeals rights granted program
5 participants or facility residents by law.

6 Section 40. Illinois State Police Sex Offender Registry. It
7 is the responsibility of each participant in a covered program
8 or resident of a covered facility who is required by law or
9 court order to register with the Illinois State Police's Sex
10 Offender Registry to monitor the accuracy of the information
11 submitted and to submit updates to the registry as required by
12 law or court order. Failure to register or to maintain the
13 accuracy of the information shall constitute a rebuttable
14 presumption that the individual poses an immediate threat to
15 the safety of other program participants or facility residents
16 and shall result in an immediate involuntary termination or
17 discharge and the waiver of all notice and appeal rights
18 accorded program participants or facility residents by law.

19 Section 45. Involuntary termination or discharge.

20 (a) When a covered program or a covered facility must
21 involuntary terminate or discharge an identified offender, the
22 covered program or covered facility's regulatory agency shall
23 assist in the transfer of the identified offender to an
24 appropriate setting.

1 (b) When a participant or resident's overt behavior or
2 threat of overt behavior places other program participants or
3 facility residents or program or facility employees at risk of
4 harm and necessitates an identified offender's immediate
5 removal, the covered program or covered facility's regulatory
6 agency shall assume responsibility for the immediate removal of
7 the identified offender within 48 hours after notification.

8 Section 50. Notification of residents and others. If an
9 identified offender is a participant in a covered program or a
10 resident of a covered facility, the program or facility shall
11 notify every program participant or the participant's guardian
12 or representative or every facility resident or the resident's
13 guardian or representative in writing that such an offender is
14 a program participant or resident of the facility. The covered
15 program or covered facility shall also provide notice to its
16 employees, visitors, and prospective program participants or
17 prospective facility residents that an identified offender is a
18 participant in the program or resident of the facility.

19 Section 55. Segregated programming.

20 (a) Segregated nursing home initiative. No later than
21 January 1, 2012, the Department of Public Health shall
22 designate one or more nursing homes licensed by the Department
23 of Public Health under the Nursing Home Care Act, or a distinct
24 segregated area within a licensed nursing home that provides

1 intermediate or skilled care services, for identified
2 offenders who have been determined to need more intense
3 supervision than a standard nursing home can provide. The
4 Department of Public Health shall form a work group to develop
5 criteria for admission to a high risk facility or unit and
6 security standards. Members of the work group shall include the
7 directors of all agencies having expertise in high risk
8 individuals, such as the Directors from the Departments of
9 Corrections and State Police, representatives of associations
10 representing long term care facilities, and individuals
11 representing the interests of nursing home residents. The
12 Department of Public Health shall issue an evaluation of the
13 implementation of this initiative no later than January 1,
14 2015.

15 (b) Segregated supportive living facility initiative. No
16 later than January 1, 2013, the Department of Healthcare and
17 Family Services shall designate one or more supportive living
18 facilities certified by the Department for high risk identified
19 offenders who have been determined to need more intense
20 supervision than a standard supportive living facility can
21 provide. The Department shall form a work group to develop
22 criteria for admission to a high risk facility and security
23 standards. Members of the work group shall include the
24 directors of all agencies having expertise in high risk
25 individuals, such as the Directors from the Departments of
26 Corrections and State Police, representatives of associations

1 representing supportive living facilities, and individuals
2 representing the interests of supportive living facility
3 residents. The Department of Healthcare and Family Services
4 shall issue an evaluation of the implementation of this
5 initiative no later than January 1, 2016.

6 Section 60. Civil immunity. Except for willful and wanton
7 misconduct, a covered program or covered facility that follows
8 the terms of a security plan is immune from sanctions or civil
9 liability for any acts committed by a program participant or
10 facility resident who is an identified offender.

11 (210 ILCS 45/2-201.5 rep.)

12 (210 ILCS 45/2-201.6 rep.)

13 (210 ILCS 45/2-216 rep.)

14 (210 ILCS 45/3-202.4 rep.)

15 Section 90. The Nursing Home Care Act is amended by
16 repealing Sections 2-201.5, 2-201.6, 2-216, and 3-202.4.

17 Section 95. The Unified Code of Corrections is amended by
18 changing Section 3-14-1 as follows:

19 (730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)

20 Sec. 3-14-1. Release from the Institution.

21 (a) Upon release of a person on parole, mandatory release,
22 final discharge or pardon the Department shall return all

1 property held for him, provide him with suitable clothing and
2 procure necessary transportation for him to his designated
3 place of residence and employment. It may provide such person
4 with a grant of money for travel and expenses which may be paid
5 in installments. The amount of the money grant shall be
6 determined by the Department.

7 The Department of Corrections may establish and maintain,
8 in any institution it administers, revolving funds to be known
9 as "Travel and Allowances Revolving Funds". These revolving
10 funds shall be used for advancing travel and expense allowances
11 to committed, paroled, and discharged prisoners. The moneys
12 paid into such revolving funds shall be from appropriations to
13 the Department for Committed, Paroled, and Discharged
14 Prisoners.

15 (b) (Blank).

16 (c) Except as otherwise provided in this Code, the
17 Department shall establish procedures to provide written
18 notification of any release of any person who has been
19 convicted of a felony to the State's Attorney and sheriff of
20 the county from which the offender was committed, and the
21 State's Attorney and sheriff of the county into which the
22 offender is to be paroled or released. Except as otherwise
23 provided in this Code, the Department shall establish
24 procedures to provide written notification to the proper law
25 enforcement agency for any municipality of any release of any
26 person who has been convicted of a felony if the arrest of the

1 offender or the commission of the offense took place in the
2 municipality, if the offender is to be paroled or released into
3 the municipality, or if the offender resided in the
4 municipality at the time of the commission of the offense. If a
5 person convicted of a felony who is in the custody of the
6 Department of Corrections or on parole or mandatory supervised
7 release informs the Department that he or she has resided,
8 resides, or will reside at an address that is a housing
9 facility owned, managed, operated, or leased by a public
10 housing agency, the Department must send written notification
11 of that information to the public housing agency that owns,
12 manages, operates, or leases the housing facility. The written
13 notification shall, when possible, be given at least 14 days
14 before release of the person from custody, or as soon
15 thereafter as possible.

16 (c-1) (Blank).

17 (c-5) If a person on parole or mandatory supervised release
18 becomes a resident of a facility or participant in a program
19 licensed or regulated by the Department of Public Health, the
20 Illinois Department of Healthcare and Family Services ~~of Public~~
21 ~~Aid~~, ~~or~~ the Illinois Department of Human Services, or the
22 Department on Aging, the Department of Corrections shall
23 provide copies of the following information to the appropriate
24 licensing or regulating Department and the licensed or
25 regulated facility where the person becomes a resident:

26 (1) The mittimus and any pre-sentence investigation

1 reports.

2 (2) The social evaluation prepared pursuant to Section
3 3-8-2.

4 (3) Any pre-release evaluation conducted pursuant to
5 subsection (j) of Section 3-6-2.

6 (4) Reports of disciplinary infractions and
7 dispositions.

8 (5) Any parole plan, including orders issued by the
9 Prisoner Review Board, and any violation reports and
10 dispositions.

11 (6) The name and contact information for the assigned
12 parole agent and parole supervisor.

13 This information shall be provided within 3 days of the
14 person becoming a resident of the facility.

15 (c-10) If a person on parole or mandatory supervised
16 release becomes a resident of a facility licensed or regulated
17 by the Department of Public Health, the Illinois Department of
18 Public Aid, or the Illinois Department of Human Services, the
19 Department of Corrections shall provide written notification
20 of such residence to the following:

21 (1) The Prisoner Review Board.

22 (2) The chief of police and sheriff in the municipality
23 and county in which the licensed facility is located.

24 The notification shall be provided within 3 days of the
25 person becoming a resident of the facility.

26 (d) Upon the release of a committed person on parole,

1 mandatory supervised release, final discharge or pardon, the
2 Department shall provide such person with information
3 concerning programs and services of the Illinois Department of
4 Public Health to ascertain whether such person has been exposed
5 to the human immunodeficiency virus (HIV) or any identified
6 causative agent of Acquired Immunodeficiency Syndrome (AIDS).

7 (e) Upon the release of a committed person on parole,
8 mandatory supervised release, final discharge, or pardon, the
9 Department shall provide the person who has met the criteria
10 established by the Department with an identification card
11 identifying the person as being on parole, mandatory supervised
12 release, final discharge, or pardon, as the case may be. The
13 Department, in consultation with the Office of the Secretary of
14 State, shall prescribe the form of the identification card,
15 which may be similar to the form of the standard Illinois
16 Identification Card. The Department shall inform the committed
17 person that he or she may present the identification card to
18 the Office of the Secretary of State upon application for a
19 standard Illinois Identification Card in accordance with the
20 Illinois Identification Card Act. The Department shall require
21 the committed person to pay a \$1 fee for the identification
22 card.

23 For purposes of a committed person receiving an
24 identification card issued by the Department under this
25 subsection, the Department shall establish criteria that the
26 committed person must meet before the card is issued. It is the

1 sole responsibility of the committed person requesting the
2 identification card issued by the Department to meet the
3 established criteria. The person's failure to meet the criteria
4 is sufficient reason to deny the committed person the
5 identification card. An identification card issued by the
6 Department under this subsection shall be valid for a period of
7 time not to exceed 30 calendar days from the date the card is
8 issued. The Department shall not be held civilly or criminally
9 liable to anyone because of any act of any person utilizing a
10 card issued by the Department under this subsection.

11 The Department shall adopt rules governing the issuance of
12 identification cards to committed persons being released on
13 parole, mandatory supervised release, final discharge, or
14 pardon.

15 (Source: P.A. 94-163, eff. 7-11-05.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 210 ILCS 45/2-201.5 rep.

5 210 ILCS 45/2-201.6 rep.

6 210 ILCS 45/2-216 rep.

7 210 ILCS 45/3-202.4 rep.

8 730 ILCS 5/3-14-1 from Ch. 38, par. 1003-14-1